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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,791	08/21/2001	Constant Paul Marie Jozef Baggen	NL000476	6734

24737 7590 09/19/2005

PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
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BRIARCLIFF MANOR, NY 10510

EXAMINER

ALPHONSE, FRITZ

ART UNIT PAPER NUMBER

2133

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/933,791

Applicant(s)

BAGGEN ET AL.

Examiner

Fritz Alphonse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner *because "Fig. 6" shall be erased from the Abstract.*
- 10) ☒ The drawing(s) filed on 21 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/21/01
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1-14 are objected to because of the following informalities: Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP 608.01(i)-(p). Appropriate correction is required.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-14 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-20 of copending Application No. 09/817,095. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, for example:

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Claims 1-10 of the present application (No. 09/933,791) and claims 1-10 of copending application (No. 09/817,095) are functionally equivalent.

Claims 11-14 of the present application (No. 09/933,791) and claims 15-20 of copending application (No. 09/817,095) are functionally equivalent.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnerot (U.S. Pat. No. 5, 282,209) in view of Howe (U.S. Pat. No. 5,220,568).

As to claims 11 and 12, Lee (fig. 1A) shows a method of storing a number of data bits of a secondary channel (30) in the frame of a main channel (16) comprising a fixed number of main channel bits and a frame synchronization signal (col. 1, lines 20-28), characterized in that a secondary frame is formed having a fixed number of frame bits (fig. 2; col. 2, lines 47-50), which frame bits are successively filled with a number of data bits, an end-bit, which is set to a first bit-value, and filling bits, if any, which are set to a second bit-value, wherein the number of data bits is dependent on the number of bits being available in the frame of the main channel for storage of bits of the secondary channel (col. 2, lines 51-63).

Lee does not explicitly disclose a device for storing data bits, wherein a frame is encoded using an error correction encoder producing encoded data bits and parity bits and that the encoded data bits and parity bits are embedded in the frame of the main channel.

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However, in the same field of endeavor, Howe (fig. 2) shows a device for storing a number of data bits, wherein the number of data bits (113) is dependent on and smaller than a random number (col. 11, lines 65 through col. 12 line 19) of bits being available in the frame of a main channel for storage of bits of a secondary channel, to encode the secondary frame using an error correction encoder (col. 9, lines 48- 65) producing encoded data bits and parity bits (col. 7, lines 37-52) and to embed the encoded data bits and parity bits in the frame of the main channel (col. 8, lines 25-35).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine Lee with the shift correcting device, as disclosed by Howe. Doing so would help detecting and correcting shift errors without a disproportionate increase in overhead of the outside error correction code (col. 2, lines 50-53).

As to claims 13-14, the claims have substantially the limitations of claims 11 and 12; therefore, they are analyzed as discussed in claims 11-12 above.

As to claims 1-10, method claims 1-10 correspond to apparatus claims 13 and 14; therefore, they are analyzed as discussed in claims 13-14 above.

### ***Conclusion***

6. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington, D.C. 20231

**or faxed to:** (703) 872-9306 for all formal communications.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Fourth Floor (Receptionist).

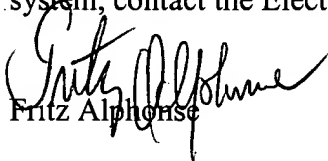
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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fritz Alphonse, whose telephone number is (571) 272-3813. The examiner can normally be reached on M-F, 8:30-6:00, Alt. Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert De Cady, can be reached at (571) 272-3819.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3824.

Information regarding the status of an application may also be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Fritz Alphonse

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September 14, 2005



**GUY LAMARRE**  
**PRIMARY EXAMINER**